IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.2276 of 2004

Between:

D. Kullayappa S/o Peerappa, aged 45 years, R/o Marthadu Village,

Garladinne Mandal, Ananthapur District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, Garladinne Mandal, Ananthapur District
2 Achamma, W/o. Thippanna, Marthadu village, Garladinne Mandal,

Ananthapur District.
(R2 is impleaded as per Court order dt.11-10-2004 in WPMP 14327 of 2004.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or writs, order or direction, declaring the action of the Respondent in seeking to interfere with the borewell of the petitioner located in Sy.No.17-1A of Marthadu Village, Garladinne Mandal, Ananthapur District, as otherwise than in due process of law, as illegal, arbitrary, without jurisdiction, Violative of Arts. 14 & 21 of the Constitution of India and also being violative of express provisions enunciated under A.P. Water, Land and Trees Act, 2002; Award costs.

Counsel for the Petitioner: MR.N.RANGA REDDY

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for the Respondent No.2: MR. K. MAHESWARA RAO

The Court made the following:

ORDER:

The petitioner claims to be owner of land in S.No.17-1A of Marthadu Village, Garladinne Mandal, Ananthapur District. He dug a bore well for agricultural purpose. It is his contention that first respondent without following due procedure under Section 12(2)(i) of the A.P.Water, Land and Trees Act, 2002 (for short, the Act) visited the area and directed the petitioner to close bore well. Therefore, petitioner filed the present Writ Petition.

Second respondent who got impleaded in the Writ Petition filed a counter affidavit *inter alia* contending that after considering the complaint of second respondent, first respondent called for a report from Panchayat Secretary at Marthadu and having come to the conclusion that the petitioner who already has dug bore well drilled in bore well causing hardship to other villagers and that endorsement/order was passed on 12.8.2003 by first respondent asking the Station House Officer, Garladinne to take necessary action for closure of the bore well.

A perusal of the letter dt.12.8.2003 of first respondent addressed to Station House Officer, Garladinne would reveal that first respondent came to the conclusion that petitioner's new bore well is causing hardship to other villagers and therefore the bore well should be closed. First respondent, however, did not issue any notice before passing orders for closure and therefore as per the provisions of Section 12(1) and 12(2) of the Act, the same is unsustainable. The provisions of law requires a pre-decisional notice as well as post-decisional notice to the person aggrieved whose bore well is sought to be closed.

Therefore, this Writ Petition is disposed of giving liberty to first respondent to issue notice petitioner and pass appropriate orders. Till then, no coercive steps shall be taken against petitioner. This exercise may be completed within a period of three weeks from the date of receipt of a copy of this order. No costs.

1.11.2004 (V.V.S.RAO, J)

bnr

To

1. The Mandal Revenue Officer, Garladinne Mandal,

Ananthapur District

2. Two CCs to the Government Pleader for Revenue,

High Court Buildings, Hyderabad (O.U.T)

3. Two C.D. Copies.